

Message Text

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ACTION L-03

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 652

INFO AMEMBASSY MOSCOW

C O N F I D E N T I A L USUN 4340

E.O. 11652: GDS

TAGS: UR, PINS, UN, APER

SUBJECT: APPEARANCE BEFORE GRAND JURY ON KOSENKOV CASE AND
DECISION OF GRAND JURY

REF: STATE 212159

FOR DEPT OF JUSTICE (CRIMINAL DIVISION - FRANK NILAND)

1. MISOFF (KUTTNER) TESTIFIED ON OCTOBER 29, 1973 BEFORE
GRAND JURY IN U.S. DISTRICT COURT FOR SOUTHERN DISTRICT
OF NEW YORK IN KOSENKOV CASE. DETECTIVES REPRESENTING
NYPD, FBI REPRESENTATIVE AND JDL MEMBERS MITCHELL REIN
AND ZELIG SPRAIN ALSO APPEARED BEFORE GRAND JURY.

2. AT ABOUT 1800 HOURS ON OCTOBER 29, U.S. ATTORNEY
JED RAKOFF PHONED. HE ADVISED THAT GRAND JURY HAD VOTED
A TRUE BILL AND THAT A TRIAL WOULD BE HELD IN NEAR FUTURE.

3. RAKOFF EXPRESSED VIEW THAT IF CASE IS TO BE WON, IT
WILL BE NECESSARY FOR KOSENKOV TO APPEAR AS A WITNESS.
WE CONCUR WITH HIS OPINION, PARTICULARLY SINCE IT HAS NOT
BEEN POSSIBLE TO FIND ANY INDIVIDUAL WHO SAW PAINT
THROWING INCIDENT, AND ALL WITNESSES ARE GIVING HEAR-
SAY EVIDENCE.

4. WE HAVE APPROACHED SERGEY SMIRNOV, SENIOR COUNSELOR
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OF SMUN AND HAVE REQUESTED THAT EARLIER SOVIET DECISION,

DENYING PERMISSION TO KOSENKOV TO APPEAR IN NEW YORK CITY COURT, BE RE-CONSIDERED IN LIGHT OF NEW IMPORTANT DEVELOPMENTS. WE ADVISED SMIRNOV THAT THIS IS FIRST CASE WHICH WILL COME TO COURT UNDER NEW FEDERAL LEGISLATION ON PROTECTION OF DIPLOMATS. WE STATED THAT SINCE SOVIETS HAVE ALWAYS TALKED ABOUT IMPORTANCE OF FEDERAL LEGISLATION, THIS WAS GOLDEN OPPORTUNITY TO HELP MAKE FEDERAL LEGISLATION WORK.

5. SMIRNOV HAS PROMISED TO REQUEST NEW INSTRUCTIONS AND WILL ADVISE US OF SOVIET DECISION ASAP.
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